

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of the Commission's Rules and	)	RM No. 11787
Policies to Improve the Translator Interference	)	
Complaint Process	)	

To: The Commission

**STATEMENT IN SUPPORT OF PETITION FOR RULEMAKING**

Alpha Media LLC, Beasley Media Group, LLC, iHeartMedia + Entertainment, Inc., and KMMY, Inc. (collectively, the “Commenters”) hereby file this statement in support of the Petition for Rulemaking dated April 20, 2017 (the “NAB Petition”) submitted by the National Association of Broadcasters (“NAB”), requesting that the Commission initiate a rule making proceeding to improve the complaint process for interference to listeners caused by secondary-service FM translators and to allow FM translators to resolve interference by changing to any available FM channel via a minor change application. 1/

NAB’s proposals for the improvement of the process of handling interference caused by FM translators presents a consensus position respectful of competing spectrum uses by a wide range of broadcasters, including those, such as the Commenters here, who serve the public via both primary full service radio stations and secondary-service FM translators.

One of NAB’s common sense proposals is for a revision of Section 74.1233 of the

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1/ The Commission issued a Public Notice, Report No. 3076, on April 27, 2017, setting May 30, 2017, as the deadline for statements opposing or supporting the NAB Petition. *See also* 47 C.F.R. §§ 1.4 and 1.405.

Commission's Rules defining minor modifications to FM translators. At present, the Commission restricts a minor channel change for an FM translator to a first, second or third adjacent, or IF, channel. <sup>2/</sup> In lieu of this limitation, the NAB proposes that an FM translator may resolve interference to other signals by moving anywhere on the FM dial as a minor change. <sup>3/</sup> As noted in the NAB Petition, this proposed rule change would be a logical extension of the current Commission policy which allows a waiver of the minor modification channel restriction for FM translators "displaced" by interference from new or modified full service FM operations. <sup>4/</sup> The additional channel flexibility proposed by NAB, along with its proposed streamlined process for submitting an affidavit and engineering statement to demonstrate interference, will speed resolution of FM translator interference and reduce the administrative burden on the Commission. This proposal should be adopted in furtherance of the public good.

The other area of improvement proposed by NAB is a set of reforms to the Commission's practices for processing complaints of interference caused by FM translators. <sup>5/</sup> First, based on real-world experiences, NAB proposes that an actionable filing by a full service station generally should be supported by interference complaints from a minimum of six listeners. <sup>6/</sup> Second, the NAB Petition suggests clarifications as to the information provided by complainants to ensure their objectivity. <sup>7/</sup> Third, NAB recommends that the locations of actual

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<sup>2/</sup> See 47 C.F.R. § 73.1233(a)(1).

<sup>3/</sup> See NAB Petition at 4-8.

<sup>4/</sup> See *id.* at 6.

<sup>5/</sup> See *id.* at 8-15.

<sup>6/</sup> See *id.* at 9-10.

<sup>7/</sup> See *id.* at 10-11. Specifically, in addition to providing the name and contact information of each complainant, the documentation submitted to the Commission should include clear

interference be of a sufficient number and locations to indicate a real and consistent interference problem. 8/ Fourth, NAB proposes that documentation that the full service FM station has used commercially reasonable efforts to inform the translator of the claimed interference should be a prerequisite to an actionable interference complaint. 9/ If the interference cannot be resolved privately, then specific deadlines should govern the interim and final steps in the complaint process. 10/

These NAB Petition procedural reforms will fine-tune the Commission's complaint system, providing a more administratively efficient, swift and predictable process, benefiting the listening public, FM translator stations and full service station licensees alike.

Importantly, the complaint process improvements detailed by the NAB Petition will preserve the fundamental nature of FM translators as a secondary service. As many commenters, including the undersigned in a Statement filed in RM-11786 (the "Aztec Docket") have observed, proposals to drastically limit the populations that are shielded from FM translator interference would, in many instances, elevate FM translator service to a primary service equal to

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evidence that the individual is a regular listener of the desired station and is unaffiliated with the station, along with an address or accurate description of the listening location. Moreover, NAB requests that the Commission clarify that a listener complaint is valid even if received through an online or other solicitation, or written on a form letter, so long as the required information is provided. Also, the NAB Petition recommends that the Commission clarify whether signal strength of the desired station is a relevant factor and how that factor will be applied, and that a complainant should be willing to certify that they try to access the desired station on a regular basis.

8/ See *id.* at 12. Besides demonstrating actual, continual interference at multiple locations, NAB recommends that the complaint process should include "on/off" testing on terms mutually agreeable to the desired station and the FM translator.

9/ See *id.* at 13-14.

10/ See *id.*

full service FM stations. <sup>11/</sup> That fundamental change would harm the full service FM stations' regular listeners and undermine the economic viability of full service FM stations.

While the Joint Statement filed in the Aztec Docket addressed specifically the proposals made by Aztec that would limit the interference safeguards for regular listeners of full power FM stations, the ill effects highlighted by the Joint Statement apply with equal, if not greater force, to kindred-spirit variations of the FM translator complaint policy suggested by other commenters in the Aztec Docket.

For example, some commenters in the Aztec Docket want to increase the number of complainants necessary to trigger FM translator interference remediation above and beyond the NAB proposal of six regular listeners, even requiring hundreds of individual complainants. Yet, these attempts to increase the barriers to interference resolution do not account for the fact that many impacted regular full service listeners will not submit complaints, whether out of privacy concerns, concerns of being harassed, or lack of knowledge as to how to complain. Requiring a high number of complaints is onerous and may take a significant time for the full service station to compile, while during that time the full service station is being impacted by interference and losing the listeners that *did* exist. The Commission's and broadcasters' experience over the years gives power to the truth that every *bona fide* complaint actually represents many additional suffering regular listeners that have not submitted to the complaint process, with time of the essence in correcting the interference.

Other commenters in the Aztec Docket want the Commission to reject any

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<sup>11/</sup> The undersigned participated in the Aztec Docket via the Joint Statement of Broadcasters in Opposition to Petition for Rule Making, dated May 18, 2017 (the "Joint Statement"). That Joint Statement is incorporated by reference herein. A copy of this Statement is also being submitted in the Aztec Docket.

complaint where there is a claimed lack of cooperation within 30 days. This proposed “solution” is troubling...and ripe for mischief. How hard does the FM translator interferer have to work to contact this listener? Of course, it is not the full service station’s listener’s full time job to work on helping to resolve interference complaints, other work, family and personal commitments will take precedence. Under this system, a representative of the FM translator would have every incentive to annoy, harass and intimidate complainants to the point that they become unresponsive.

And yet other proposals tossed into the Aztec Docket would place a time limit after an FM translator begins operation for the Commission to entertain interference complaints, after which cut-off date the FM translator would safely reside in the equivalency of primary station status. Yet, as pointed out in the Joint Statement, there are many engineering and technical constraints placed on full service stations that are absent for FM translators, for example, the lack of certifications for the mounting of directional antennas. Coupled with a reduction in Enforcement Bureau Field Office staffing to conduct on-site inspections, a strict time limit for interference complaints would encourage restrained operation of the FM translator during that initial period, and full, or even excessive, operations thereafter.

Yet another set of suggestions to eviscerate the secondary status of FM translators are the duplicated proposals in the Aztec Docket encouraging the Commission to dismiss any complaint where the programming of the full service station can be accessed by alternative means, such as Internet stream, smart phone connection or other alternative means of communication “reasonably available to the complainant.” First, the Commission’s jurisdiction and duty is to protect listeners of broadcast stations, not demand that those listeners access that programming via non-broadcast delivery systems. Indeed, if Internet streaming is deemed by

these commenters to be the equivalent to over-the-air broadcasts, why then do AM stations need an FM translator at all to boost reception or add nighttime coverage? Why not just let these AM stations stream their programming and save on transmitter expenses? Of course, streaming *is not* a replacement for continuous over-the-air coverage that is the cornerstone of broadcasting: not everyone can obtain or access streaming; there is a cost for the user; and it may not include EAS information. Second, to the extent that streaming of radio station programming on the Internet has become a widespread practice in the industry as a supplement to over-the-air broadcasts, this proposed exception would surely swallow the whole, leaving only listeners to non-streamed radio stations subject to interference resolution.

To the extent that Aztec and other commenters pre-suppose a lack of good faith by full service stations submitting interference complaints, the time, effort and expense for a full service station to prosecute a complaint proceeding itself is a safeguard against the manipulation of Commission processes. Even if there may be isolated instances straying from the norm of good faith, the Commission should focus on a refined process for allowing any sham complaints to be efficiently invalidated, rather than adopting obstructive rules tailored to the exception from the goal of the majority of full service stations to protect their established listenership from interference.

The NAB Petition reforms will make the Commission's FM translator rules and complaint process more efficient, swift and predictable. It is respectfully submitted that the Commission should adopt the measured improvements outlined by the NAB, which will place into effect common sense guardrails to guide the FM translator interference complaint process, rather than the roadblocks to interference resolution offered up in the Aztec Docket.

Respectfully submitted,

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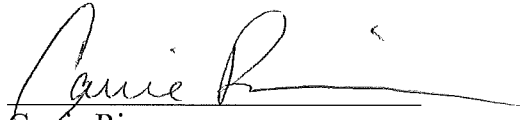


**CERTIFICATE OF SERVICE**

I, Carrie Rimmer, do hereby certify that a copy of the foregoing Statement in Support of Petition for Rulemaking is being sent via first-class, U.S. Mail, postage prepaid, this 30<sup>th</sup> day of May, 2017, to the following:

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